

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KIMBERLEY THOMPSON,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of  
Social Security Administration,

Defendant.

CASE NO. C09-5799 BHS JRC

REPORT AND  
RECOMMENDATION

Noted for July 30, 2010

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4) and as authorized by Mathews v. Weber, 423 U.S. 261 (1976). Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security denying an application for disability insurance benefits.

This matter is before the court on the parties' stipulated motion to remand the matter to the administration for further consideration. Doc. 17. The motion states that the parties agree the matter should be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings, including, but not limited to, the following actions: the administrative

1 law judge (ALJ) will specifically define Plaintiff's limitations and abilities related to her need to sit  
2 or stand, providing times and frequencies for and between each activity; obtain supplemental  
3 vocational expert testimony to determine whether, in light of Plaintiff's residual functional capacity,  
4 there is any work she could perform that exists in significant numbers; to explicitly determine the  
5 number and occurrence of those jobs; and ask the vocational expert about whether their testimony  
6 conflicts with the Dictionary of Occupational Titles and elicit explanations for any conflict. The ALJ  
7 will perform any further development and conduct any further proceedings deemed necessary,  
8 including additional issues discussed in Plaintiff's opening brief.

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10 Based on the parties' agreement, the Court should remand the matter, pursuant to  
11 sentence four of 42 U.S.C. § 405(g), to the administration for further consideration as noted  
12 above. Upon proper request to this Court, Plaintiff should be entitled to reasonable attorney fees  
13 and costs pursuant to 28 U.S.C. § 2412(d). The parties have submitted a proposed order and  
14 judgment for the court's consideration.

15 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil  
16 Procedure, the parties shall have fourteen (14) days from service of this Report to file written  
17 objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those  
18 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the  
19 time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **July**  
20 **30, 2010**, as noted in the caption.

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22 DATED at this 8th day of July, 2010.

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26 J. Richard Creatura  
United States Magistrate Judge